

**HOUSE OF REPRESENTATIVES**  
**Roll Call**  
**NATURAL RESOURCES COMMITTEE**

DATE: 3-26-07

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
REP. WALTER MCNUTT, CHAIR	✓	
REP. RALPH HEINERT, VICE CHAIR	✓	
REP. RON ERICKSON, VICE CHAIR	✓	
REP. DUANE ANKNEY	✓	
REP. DEBBY BARRETT	✓	
REP. JILL COHENOUR	✓	
REP. SUE DICKENSON	✓	
REP. BETSY HANDS	✓	
REP. GORDON HENDRICK	✓	
REP. CAROL LAMBERT	✓	
REP. SCOTT MENDENHALL	✓	
REP. JP POMNICHOWSKI	✓	
REP. JOHN ROSS	✓	
REP. VERONICA SMALL-EASTMAN	✓	
REP. KENDALL VAN DYK	✓	
REP. CHAS VINCENT	✓	



## HOUSE STANDING COMMITTEE REPORT

March 27, 2007

Page 1 of 12

Mr. Speaker:

We, your committee on **Natural Resources** recommend that **House Bill 831** (first reading copy -  
- white) **do pass as amended.**

Signed: *Walter McNutt Chair*  
Representative Walter McNutt, Chair

**And, that such amendments read:**

1. Title, line 9 through line 11.  
**Strike:** "REQUIRING" on line 9 through "CRITERIA;" on line 11
2. Title, line 12.  
**Following:** "REQUIREMENTS"  
**Insert:** "AND A FEE"
3. Title, line 13 through line 14.  
**Strike:** "RECOGNIZING" on line 13 through "INSTANCES;" on line 14
4. Title, line 15.  
**Following:** "85-2-330,"  
**Insert:** "85-2-335,"  
**Strike:** "85-2-337,"
5. Title, line 16.  
**Strike:** "85-2-402,"  
**Following:** "MCA;"  
**Insert:** "REPEALING SECTION 85-2-337, MCA;"
6. Title, line 17.  
**Strike:** "APPLICABILITY DATES"  
**Insert:** "AN APPLICABILITY DATE"
7. Page 2, line 27.  
**Strike:** "15"  
**Insert:** "14"  
**Strike:** "17"

**Committee Vote:**

Yes 12, No 4

Fiscal Note Required \_\_\_\_\_

650847SC.hjd

*for*  
3/27/07

**Insert:** "16"

8. Page 2, line 30.

**Following:** "offset"

**Insert:** "adverse effects resulting from"

9. Page 3, line 1 through line 2.

**Strike:** "in a closed" on line 1 through "right" on line 2

10. Page 3, line 18.

**Strike:** "15"

**Insert:** "14"

**Strike:** "17"

**Insert:** "16"

11. Page 4, line 13 through line 14.

**Following:** "offset" on line 13

**Insert:** "adverse effects resulting from"

**Strike:** "in a closed" on line 13 through "right" on line 14

12. Page 5, line 22.

**Strike:** "15"

**Insert:** "14"

**Strike:** "17"

**Insert:** "16"

13. Page 5, line 25.

**Following:** "offset"

**Strike:** "adverse effects resulting from"

14. Page 5, line 26 through line 27.

**Strike:** "in a closed" on line 26 through "right" on line 27

15. Page 6, line 11.

**Strike:** "15"

**Insert:** "14"

**Strike:** "17"

**Insert:** "16"

16. Page 7, line 5 through line 6.

**Following:** "offset" on line 5

**Insert:** "adverse effects resulting from"

**Strike:** "in a closed" on line 5 through "right" on line 6

17. Page 8, line 7 through line 8.

**Strike:** "for the purpose" on line 7 through "22]" on line 8

**Insert:** "[section 21]"

18. Page 11, line 20.

**Strike:** "15"

**Insert:** "14"

19. Page 11, line 22.

**Following:** "water supply data,"

**Insert:** "modeling information,"

20. Page 12, following line 1.

**Insert:** "(8) For an application for ground water in a basin closed pursuant to 85-2-330, 85-2-336, 85-2-341, 85-2-343, or 85-2-344 or during the period of closure for any basin that is administratively closed pursuant to 85-2-319, the applicant shall comply with the provisions of [section 14] in addition to the requirements of this section."

21. Page 12, line 22.

**Strike:** "15"

**Insert:** "14"

22. Page 12, line 27.

**Following:** "by"

**Insert:** "or for"

23. Page 13, following line 11.

**Insert:** "Section 6. Section 85-2-335, MCA, is amended to read:

"85-2-335. **Definitions.** Unless the context requires otherwise, in 85-2-335, through 85-2-336, and 85-2-338, the following definitions apply:

(1) "Application" means an application for a beneficial water use permit pursuant to 85-2-302.

(2) "Upper Clark Fork River basin" means the drainage area of the Clark Fork River and its tributaries above Milltown dam."

**Renumber:** subsequent sections

24. Page 13, line 18.

**Strike:** "15"

**Insert:** "14"

25. Page 14, line 11 through line 25.

**Strike:** section 7 in its entirety

**Renumber:** subsequent sections

26. Page 15, line 19.

**Strike:** "15"

**Insert:** "14"

27. Page 15, line 24.

**Following:** "use by"

**Insert:** "or for"

28. Page 16, line 29.

**Strike:** "15"

**Insert:** "14"

29. Page 17, line 4.

**Following:** "use by"

**Insert:** "or for"

30. Page 18, line 12.

**Strike:** "15"

**Insert:** "14"

31. Page 18, line 13.

**Following:** "use by"

**Insert:** "or for"

32. Page 19, line 2 through page 29, line 28.

**Strike:** section 13 in its entirety

**Renumber:** subsequent sections

33. Page 31, line 26 through line 27.

**Strike:** "or an application for" on line 26 through "(17)" on line 27

34. Page 31, line 28.

**Strike:** "16"

**Insert:** "15"

35. Page 31, line 29.

**Strike:** "or change in appropriation right"

36. Page 31, line 30.

**Strike:** "17"

**Insert:** "16"

37. Page 32, line 1.

**Strike:** "16"

**Insert:** "15"

38. Page 32, line 2.

**Strike:** "or change in appropriation right"

39. Page 32, line 4.

**Following:** "(3)(a)"

**Insert:** "(i)"

40. Page 32, line 4 through line 5.

**Strike:** "or change" on line 4 through "right" on line 5

41. Page 32, line 5.

**Strike:** "determine if"

**Insert:** "analyze whether"

42. Page 32, line 6.

**Following:** "If"

**Insert:** "the applicant provides substantial credible information showing that"

43. Page 32, line 6 through line 7.

**Strike:** "and the" on line 6 through "determination" on line 7

44. Page 32, line 7.

**Following:** "proceed"

**Insert:** "to process the application"

45. Page 32, line 7 through line 8.

**Strike:** "85-2-307" on line 7 through "85-2-311" on line 8

**Insert:** "[section 17]"

46. Page 32, line 8.

**Following:** "311."

**Insert:** "(ii)"

**Following:** "If"

**Strike:** "there is"

**Insert:** "the applicant fails to provide substantial credible information showing the lack of"

**Following:** "appropriator"

**Insert:** "from net depletions"

**Following:** "unless"

**Insert:** ", in addition to all other applicable criteria,"

47. Page 32, line 13.

**Following:** "(4)"

**Strike:** "(a)"

48. Page 32, line 14.

**Following:** "(3)(a)"

**Insert:** "(ii)"

**Following:** "(3)(a),"

**Insert:** "the department may proceed to process the application pursuant to [section 17] if, in addition to other applicable criteria,"

**Following:** "the applicant"

**Strike:** "may receive an appropriation right if the applicant"

**Strike:** "17"

**Insert:** "16"

49. Page 32, line 14 through line 15.

**Strike:** the last "the" on line 14 through "causes" on line 15

**Insert:** "proves by a preponderance of the evidence that"

50. Page 32, line 15.

**Following:** "effect"

**Insert:** "caused by the net depletion"

51. Page 32, line 16 through line 20.

**Strike:** subsection (b) in its entirety

52. Page 32, line 21.

**Strike:** "15"

**Insert:** "14"

**Strike:** "17"

**Insert:** "16"

53. Page 32, line 24.

**Strike:** "or a change in appropriation right"

54. Page 32, line 26.

**Strike:** "is claimed to"

**Insert:** "may"

55. Page 32, line 28 through line 29.

**Strike:** subsection (6) in its entirety

56. Page 33, line 2.

**Strike:** "15"

**Insert:** "14"

**Strike:** "17"

**Insert:** "16"

57. Page 33, line 3.

**Following:** "diversion,"

**Strike:** "or"

**Insert:** "and"

58. Page 33, line 5.

**Following:** "timing of any"

**Insert:** "net"

59. Page 33, line 8.

**Strike:** "or change in appropriation right"

60. Page 33, line 11.

**Strike:** subsection (i) in its entirety

**Renumber:** subsequent subsections

61. Page 33, line 19.

**Strike:** "or a change in appropriation right"

**Following:** "include"

**Strike:** "a"

**Following:** "hydrogeologic"

**Insert:** "data or a"

62. Page 33, line 21.

**Strike:** "or the change in appropriation right"

63. Page 34, line 15 through line 16.

**Strike:** "or change" on line 15 through "appropriation" on line 16

64. Page 34, line 22.

**Strike:** ", by a preponderance of the evidence,"

65. Page 34, line 24.

**Strike:** "(a)"

**Following:** "assessment,"

**Insert:** "the"

**Following:** "model"

**Insert:** "if provided"

**Following:** "model,"

**Insert:** "the"

**Following:** "data,"

**Insert:** "the"

66. Page 34, line 27 through page 35, line 1.

**Strike:** subsection (b) in its entirety

67. Page 35, line 2.

**Strike:** "(c)"

68. Page 35, line 9.

**Strike:** "16"

**Insert:** "15"

69. Page 35, line 11.

**Strike:** "15"

**Insert:** "14"



70. Page 35, line 13 through line 14.

**Strike:** "A mitigation plan" on line 13 through "water." on line 14

71. Page 35, line 24 through line 26.

**Strike:** "An aquifer" on line 24 through "water." on line 26

72. Page 36, line 10.

**Following:** "predicted"

**Insert:** "adverse effects on a prior appropriator caused by the"

73. Page 36, following line 14.

**Insert:** "NEW SECTION. Section 17. Process for combining decisions on ground water permit applications in closed basins.

(1) An applicant for a permit to appropriate water in a closed basin shall submit to the department a combined application consisting of a hydrogeologic assessment with an analysis of net depletion, a mitigation plan or aquifer recharge plan if required, an application for a beneficial water use permit or permits, and an application for a change in appropriation right or rights if necessary.

(2) The department shall review the application to determine if it is correct and complete under the process and requirements of 85-2-302.

(3) (a) Once an application has been determined to be correct and complete, the department shall issue a statement of the department's opinion and the reasons for its opinion, including a criteria assessment stating whether the department is of the opinion that the application should be approved, denied, or approved in a modified form or upon terms, conditions, or limitations specified by the department. The criteria assessment must be provided to the applicant and made available to the public prior to public notice of the application. The department shall prepare a notice and publish it as provided under 85-2-307.

(b) If no valid objection is filed to the application and the criteria assessment prepared by the department states that the department is of the opinion that the application should be approved, the department shall issue the permit and a hearing may not be held.

(c) If no valid objection is filed to the application and the criteria assessment prepared by the department states that the department is of the opinion that the application should be denied or approved in a modified form or upon terms, conditions, or limitations specified by the department, the department shall proceed to process the application pursuant to 85-2-310(2).

(d) If a valid objection is filed to the application, the department shall proceed to process the application pursuant to 85-2-308 through 85-2-311. If the applicant satisfies the criteria of 85-2-311 and 85-2-402, if necessary, and proves by a

preponderance of the evidence that net depletion, if any, will not adversely affect a prior appropriator based on the applicant's mitigation plan or aquifer recharge plan, the department shall issue the permit."

**Renumber:** subsequent sections

74. Page 36, line 17.

**Following:** "plans."

**Insert:** "To ensure that the department and the department of environmental quality are coordinating their respective permitting activities:"

75. Page 36, line 17.

**Strike:** "An"

**Insert:** "an"

**Strike:** "or a change in appropriation right"

**Strike:** "15"

**Insert:** "14"

76. Page 36, line 19.

**Strike:** "."

**Insert:** "; and"

77. Page 36, line 20.

**Following:** "The"

**Insert:** "the"

**Strike:** "or a change in appropriation right"

78. Page 36, line 21.

**Strike:** "15"

**Insert:** "14"

79. Page 36, line 25.

**Following:** "sewage"

**Insert:** "from a system requiring a water quality permit"

80. Page 36, line 26.

**Strike:** "17"

**Insert:** "16"

**Following:** "sewage"

**Insert:** "from a system requiring a water quality permit"

81. Page 36, line 28.

**Strike:** "17"

**Insert:** "16"

82. Page 37, line 11.

**Following:** "part 3,"

**Insert:** "and 85-2-402,"

83. Page 37, line 12.

**Strike:** "15"

**Insert:** "14"

84. Page 37, line 14 through page 38, line 3.

**Strike:** section 21 in its entirety

**Renumber:** subsequent sections

85. Page 38, line 8.

**Strike:** "15"

**Insert:** "14"

**Strike:** "17"

**Insert:** "16"

86. Page 38, line 18.

**Strike:** "15"

**Insert:** "14"

**Strike:** "and 20 through 22"

**Insert:** ", 19, and 20"

87. Page 38, line 21.

**Strike:** "15"

**Insert:** "14"

**Strike:** "and 20 through 22"

**Insert:** ", 19, and 20"

88. Page 39, line 6.

**Strike:** "16"

**Insert:** "15"

89. Page 39, line 10.

**Strike:** "85-2-337"

**Insert:** "85-2-336"

90. Page 39, line 25.

**Strike:** "16"

**Insert:** "15"

91. Page 39, line 29.

**Strike:** "16"

**Insert:** "15"

92. Page 40, line 13.

**Following:** "participation"

**Insert:** "-- fee"

93. Page 40, line 14 through line 15.

**Strike:** "or a change" on line 14 through "(17)" on line 15

94. Page 40, line 15.

**Strike:** "15"

**Insert:** "14"

**Strike:** "22"

**Insert:** "21"

95. Page 40, line 17.

**Strike:** "24"

**Insert:** "23"

96. Page 41, line 3.

**Strike:** "15"

**Insert:** "14"

97. Page 41, line 10.

**Strike:** "and"

98. Page 41, line 13.

**Following:** "study"

**Insert:** "; and

(f) to pay a fee of \$15"

99. Page 41, line 15 through line 17.

**Strike:** section 26 in its entirety

**Renumber:** subsequent sections

100. Page 41, line 22.

**Strike:** "16"

**Insert:** "15"

101. Page 41, line 29.

**Insert:** "NEW SECTION. Section 27. Repealer. Section 85-2-337, MCA, is repealed."

**Renumber:** subsequent sections

102. Page 41, line 30.

**Strike:** "15"

**Insert:** "14"

**Strike:** "23"

**Insert:** "22"

103. Page 42, line 2.

**Strike:** "15"

**Insert:** "14"

**Strike:** "23"

**Insert:** "22"

104. Page 42, line 12 through line 13.

**Strike:** "-- retroactive applicability" on line 12

**Strike:** "(1)" on line 12 through "apply" on line 13

**Insert:** "[This act] applies"

105. Page 42, line 16 through line 18.

**Strike:** subsection (2) in its entirety

- END -

# HOUSE OF REPRESENTATIVES

## Roll Call Vote

### NATURAL RESOURCES COMMITTEE

DATE 3-26-07 BILL NO HB 831 MOTION NO. 2  
 MOTION: Amendment 083101.akl

NAME	AYE	NO	ABSENTEE
REP. WALTER MCNUTT, CHAIR	✓		
REP. RALPH HEINERT, VICE CHAIR	✓		
REP. RON ERICKSON, VICE CHAIR	✓		
REP. DUANE ANKNEY	✓		
REP. DEBBY BARRETT		✓	
REP. JILL COHENOUR	✓		
REP. SUE DICKENSON	✓		
REP. BETSY HANDS	✓		✓
REP. GORDON HENDRICK	✓		
REP. CAROL LAMBERT		✓	
REP. SCOTT MENDENHALL	✓		
REP. JP POMNICHOWSKI	✓		
REP. JOHN ROSS	✓		
REP. VERONICA SMALL-EASTMAN	✓		
REP. KENDALL VAN DYK	✓		
REP. CHAS VINCENT	✓		

14-2

# HOUSE OF REPRESENTATIVES

## Roll Call Vote

### NATURAL RESOURCES COMMITTEE

DATE 3-26-07 BILL NO SB 831 MOTION NO. 3  
 MOTION: Amendment 083101.agp

NAME	AYE	NO	ABSENTEE
REP. WALTER MCNUTT, CHAIR		✓	
REP. RALPH HEINERT, VICE CHAIR		✓	
REP. RON ERICKSON, VICE CHAIR	✓		
REP. DUANE ANKNEY		✓	
REP. DEBBY BARRETT		✓	
REP. JILL COHENOUR	✓		
REP. SUE DICKENSON	✓		
REP. BETSY HANDS	✓		✓
REP. GORDON HENDRICK		✓	
REP. CAROL LAMBERT		✓	
REP. SCOTT MENDENHALL		✓	
REP. JP POMNICHOWSKI	✓		
REP. JOHN ROSS		✓	
REP. VERONICA SMALL-EASTMAN	✓		
REP. KENDALL VAN DYK	✓		
REP. CHAS VINCENT		✓	

7-9

# HOUSE OF REPRESENTATIVES

## Roll Call Vote

### NATURAL RESOURCES COMMITTEE

DATE 3-26-07 BILL NO SB 831 MOTION NO. 4

MOTION: Do Pass as Amended

NAME	AYE	NO	ABSENTEE
REP. WALTER MCNUTT, CHAIR	✓		
REP. RALPH HEINERT, VICE CHAIR	✓		
REP. RON ERICKSON, VICE CHAIR	✓		
REP. DUANE ANKNEY	✓		
REP. DEBBY BARRETT		✓	
REP. JILL COHENOUR	✓		
REP. SUE DICKENSON	✓		
REP. BETSY HANDS	✓		✓
REP. GORDON HENDRICK	✓		
REP. CAROL LAMBERT		✓	
REP. SCOTT MENDENHALL		✓	
REP. JP POMNICHOWSKI	✓		
REP. JOHN ROSS		✓	
REP. VERONICA SMALL-EASTMAN	✓		
REP. KENDALL VAN DYK	✓		
REP. CHAS VINCENT	✓		

12-4



# AUTHORIZED COMMITTEE PROXY

I request to be excused from the Natural Resources

Committee because of other commitments. I desire to leave my proxy vote with:

Ron Emberton

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT                      AYE      NO

BILL/AMENDMENT                      AYE      NO

831 Amendment McNitt	X	
831 " Emberton	X	
HB 831	X	


Rep. Betsy Huls  
(Signature)

Date 3/26

# Montana House of Representatives

## Visitors Register

## NATURAL RESOURCES COMMITTEE

Date 3-26-07

Bill No. SB 200; 317 Sponsor(s) Sen. Lewis

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

[illegible]

**Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.**